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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,477	01/15/2002	Yasumasa Nakajima	MIPFP001	3715
25920	7590	04/04/2007	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP			QUIETT, CARRAMAH J	
710 LAKEWAY DRIVE			ART UNIT	PAPER NUMBER
SUITE 200				
SUNNYVALE, CA 94085			2622	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/053,477	NAKAJIMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carramah J. Quiett	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 February 2007.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 6-10 and 32-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 6-10 and 32-35 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 15 January 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/14/2006.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other:

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment(s), filed on 02/27/2007, have been entered and made of record. Claims 6-10 and 32-35 are pending.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 6-10 and 32-35 have been considered but are moot in view of the new ground(s) of rejection.

In a telephonic interview with the applicants' undersigned representative conducted on November 28, 2006, the examiner indicated that claims 6-10 and 32-35 were allowable over the prior art of record by invoking 35 U.S.C. 112, 6<sup>th</sup> paragraph on the independent claims (6 and 32). The applicants later agreed to an Examiner's Amendment on December 15, 2006, which allowed the examiner to cancel all pending claims except for claims 6-10 and 32-35. The examiner updated the search. As stated by the applicants in the Remarks filed 02/27/2007, The examiner, however, later advised Applicants' undersigned representative that newly discovered prior art precluded the allowance of claims 6-10 and 32-35. As a result, the examiner has decided to issue to the applicants a new, non-final Office Action, which is a rejection based in the newly discovered prior art.

Because claims 6, 7 and 32 are means plus function claims, the pending claims have been examined by invoking 35 U.S.C. 112 – 6<sup>th</sup> paragraph and rejected based on Watanabe (U.S. Pat. #5,528,293) and Kinjo (U.S. Pat. #6,583,811). The following chart demonstrates the examiners interpretation of the means plus functions claims versus the applicants' specification:

<u>Claims 6 and 32</u>	<u>Fig./Ref.; Specification</u>
means for generating ...	Fig. 2, ref. 12; ¶56-57
means for designating ...	Fig. 3, ref. 102; ¶65
means for storing ...	Fig. 2, ref. MC; ¶60
means for acquiring ...	(in printer) Fig. 6, ref. 30; ¶89
means for relating ...	Fig. 7, ref. 31; Figs. 12, S140-150; 13; ¶89 & 97.

<u>Claim 7</u>	<u>Fig./Ref.; Specification</u>
means for modifying ...	Fig. 7, ref. 30 (37); ¶93-94.

*Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 6-10 and 32-35** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation “means for acquiring from said means for storing said plurality of image processing control parameters for said designated imaging condition; and means for relating said generated image data to said plurality of acquired image processing control parameters, and outputting the related image data” in the last two limitations of claim 1. There is insufficient antecedent basis for this limitation in the claim. The examiner has Claim 1 examined by invoking 35 U.S.C. 112 – 6<sup>th</sup> paragraph. Therefore, “the image pick-up device or the image capturing device” as claimed in claim 1 does not comprise the last two limitations of claim 1 as recited above in this section (5).

6. Claim 32 recites the limitation “means for acquiring from said means for storing said plurality of image processing control parameters for said designated imaging condition; and

means for relating said generated image data to said plurality of acquired image processing control parameters, and outputting the related image data” in the last two limitations of Claim 32. There is insufficient antecedent basis for this limitation in the claim. The examiner has Claim 32 examined by invoking 35 U.S.C. 112 – 6<sup>th</sup> paragraph. Therefore, “the image pick-up device or the image capturing device” as claimed in claim 1 does not comprise the last two limitations of claim 1 as recited above in this section (6).

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. **Claims 6-9 and 32-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (U.S. Pat. #5,528,293) in view of Kinjo (U.S. Pat. #6,583,811).

For **claim 6**, Watanabe discloses an image pick-up device or\* an image capturing device for generating image data that is related to an image processing control parameter designating an image processing condition for image data (fig. 1 and col. 3, line 37 – col. 5, line 24), said image pick-up device or\* said image capturing device comprising:

means for generating (fig. 1, ref. 10) configured to generate said image data (col. 3, lines 37-46);

means for designating (fig. 1, ref. 21;fig. 2a – JPEG header) an image condition when said an imaging data generating mechanism generates said image data (col. 5, lines 19-43);

means for storing (fig. 1, ref. 30) a plurality of combinations, each combination composed of said imaging condition and a plurality of said image processing control parameters (col. 5, lines 19-24);

Watanabe does not expressly disclose a means for acquiring from said means for storing said plurality of image processing control parameters for said designated imaging condition; and means for relating said generated image data to said plurality of acquired image processing control parameters, and outputting the related image data.

In a similar field of endeavor, Kinjo discloses means for acquiring (fig. 4, refs. 27-30) from said means for storing said plurality of image processing control parameters for said designated imaging condition (col. 5, lines 4-16); and

means for relating (Fig. 4, ref. 30) said generated image data to said plurality of acquired image processing control parameters, and outputting the related image data (col. 5, lines 17-32). In light of the teaching of Kinjo, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Watanabe in order to produce a high quality image when the image is read from a recording medium (Kinjo, col. 1, lines 33-52).

For **claim 7**, Watanabe, as modified by Kinjo, discloses an image pick-up device or\* an image capturing device further comprising:

means for modifying (Kinjo, fig. 4, 26 (34-35)) a value of any image processing control parameter among said plurality of acquired image processing control parameters (Watanabe, col. 5, lines 19-43) (Kinjo, col. 5, lines 17-32).

For **claim 8**, Watanabe, as modified by Kinjo, discloses an image pick-up device or\* an image capturing device wherein said image processing condition is a condition for an output device (fig. 4) that will output said image data (Kinjo, col. 5, lines 17-32).

For **claim 9**, Watanabe, as modified by Kinjo, discloses an image pick-up device or\* an image capturing device wherein said image processing control parameters include at least parameters relating to color space, gamma correction value, contrast, brightness, color balance, saturation, sharpness, color cast, and noise elimination (Watanabe, col. 5, lines 19-43) (Kinjo, col. 5, lines 17-32).

For **claim 32**, Watanabe discloses an image pick-up device or\* an image capturing device for generating image data that is related to an image processing control parameter designating an image processing condition for image data (fig. 1 and col. 3, line 37 – col. 5, line 24), said image pick-up device or\* said image capturing device comprising:

means for generating (fig. 1, ref. 10) configured to generate said image data (col. 3, lines 37-46);

means for designating (fig. 1, ref. 21;fig. 2a – JPEG header) an image condition when said an imaging data generating mechanism generates said image data (col. 5, lines 19-43);

means for storing (fig. 1, ref. 30) a plurality of sets of said image processing control information, the information specifying an image processing control parameter set to be used for image processing of said image data, under said imaging condition (col. 5, lines 19-24);

Watanabe does not expressly disclose a means for acquiring from said means for storing said plurality of image processing control parameters for said designated imaging condition; and

means for relating said generated image data to said plurality of acquired image processing control parameters, and outputting the related image data.

In a similar field of endeavor, Kinjo discloses

means for acquiring (fig. 4, refs. 27-30) from said means for storing said plurality of image processing control parameters for said designated imaging condition (col. 5, lines 4-16); and

means for relating (Fig. 4, ref. 30) said generated image data to said plurality of acquired image processing control parameters, and outputting the related image data (col. 5, lines 17-32). In light of the teaching of Kinjo, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Watanabe in order to produce a high quality image when the image is read from a recording medium (Kinjo, col. 1, lines 33-52).

Regarding **claims 33-34**, these claims are apparatus claims corresponding to the apparatus claims 3-4, respectively. Therefore, apparatus claims 33-34 are analyzed and rejected as previously discussed with respect to claims 3-4, respectively.

9. **Claims 10 and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (U.S. Pat. #5,528,293) in view of Kinjo (U.S. Pat. #6,583,811) as applied to claims 6 and 32 above, and further in view of Takemura (U.S. Pat. #6,657,658).

For **claim 10**, Watanabe, as modified by Kinjo, discloses an image pick-up device or\* an image capturing device wherein said image data generating device is a photographic device (col. 3, lines 37-46). However, Watanabe, as modified by Kinjo, do not expressly teach that said imaging condition is a picture mode in said photographic device.

In a similar field of endeavor, Takemura teaches that said imaging condition is a picture mode in said photographic device (figs. 1-5; col. 7, line 8 – col. 8, line 21). In light of the teaching of Takemura, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the photographic device of Watanabe, as modified by Kinjo, where the imaging condition is a picture mode in order to select a desired finish for image output (Takemura, col. 3, lines 28-35).

**Claim 35** corresponds to apparatus claim 10. Therefore, apparatus claim 35 is analyzed and rejected as previously discussed with respect to claim 10.

\*Note: The U.S. Patent and Trademark Office considers Applicant's "or" language to be anticipated by any reference containing one of the subsequent corresponding elements.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJQ  
March 26, 2007



NGOC-YEN VU  
SUPERVISORY PATENT EXAMINER